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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/561,352

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Roland Ochmann

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02/25/2009

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EXAMINER

DOAK, JENNIFER L

ART UNIT

PAPER NUMBER

2872

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/561,352	OEHMANN, ROLAND	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jennifer L. Doak	2872	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 25-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/16/07</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Information Disclosure Statement*

Applicant's strenuous objection to Examiner's non-consideration of the previously filed IDS for lack of English abstracts for non-English foreign references is noted. Applicant requests sections of USC, CFR, or MPEP requiring English Abstracts, and notes that "there is a concise statement of the relevance of each reference and appropriate summary of each translation" (REMARKS, p. 5).

Examiner finds that the concise statement of relevance was separated and not previously noted for review. Examiner apologizes for any inconvenience. Thus, the requirements of 37 CFR 1.97, 1.98, and MPEP §609 are met pursuant to the following sections (MPEP §609.04(a), cited again at the request of Applicant):

The requirement for a concise explanation of relevance is limited to information that is not in the English language. The explanation required is limited to the relevance as understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information at the time the information is submitted to the Office. If a complete translation of the information into English is submitted with the non-English language information, no concise explanation is required. An English-language equivalent application may be submitted to fulfill this requirement if it is, in fact, a translation of a foreign language application being listed in an information disclosure statement. There is no requirement for the translation to be verified. **Submission of an English language abstract of a reference may fulfill the requirement for a concise explanation.** Where the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office. This may be an explanation of which portion of the reference is particularly relevant, to which claims it applies, or merely an "X", "Y", or "A" indication on a search report. The requirement for a concise explanation of non-English language information would not be satisfied by a statement that a reference was cited in the prosecution of a United States application which is not relied on under 35 U.S.C. 120.

If information cited or submitted in a prior application relied on under 35 U.S.C. 120 was not in English, a concise explanation of the relevance of the information to the new application is not required unless the relevance of the information differs from its relevance as explained in the prior application.

The concise explanation may indicate that a particular figure or paragraph of the patent or

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publication is relevant to the claimed invention. It might be a simple statement pointing to similarities between the item of information and the claimed invention. It is permissible but not necessary to discuss differences between the cited information and the claims.

Thus, a partially considered IDS is herein considered. The typographical error previously noted still is not considered.

### ***Specification***

The title of the invention is not descriptive. “The title should be brief but technically accurate and descriptive and should contain fewer than 500 characters,” MPEP §606. Specifically, statements concerning the general type or nature of the entire system or its components that are common to many other similar elements or systems that are known in the art are not sufficiently descriptive to provide “informative value in indexing, classifying, searching, etc.,” MPEP §606.01. Examiner recommends directing the title to what Applicant believes is the point of novelty, since it is by the novelty that “indexing, classifying, searching, etc.” is generally accomplished. Nevertheless, it should be noted that, pursuant to MPEP §606.01, “[i]f a satisfactory title is not supplied by the applicant, the examiner may, at the time of allowance, change the title by examiner’s amendment.”

Applicant's amendment is noted, but is still found insufficient. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 25-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Lang (US 20020080506).

Regarding claim 25, Lang discloses an outside rear view mirror assembly (Title) for a motor vehicle, said outside rear view mirror assembly comprising: a mirror housing (Fig. 2) including a circumferential lateral wall (i.e., as defined by the circumscribing edge of 4) defining an opening (i.e., wherein the mirror resides), an insertion opening (22), and a back wall (5); a mirror mounting bracket (18) fixedly securable to the motor vehicle (i.e., via 22 and 4) and insertable into said mirror housing (i.e., within the housing circumference) through said insertion opening; and a snap-in tongue (i.e., the clips extending from 5) defining a free end and extending out from said back wall (i.e., interior wall of 5) within said mirror housing for engaging said mirror mounting bracket (i.e., via 4) when said mirror mounting bracket is inserted into said mirror housing to lock said mirror mounting bracket therein (Fig. 2) such that said mirror housing is fixedly securable to the motor vehicle (although the Lang does not specifically disclose the claimed attachment to a motor vehicle, this feature is seen to be an inherent teaching of that device since it is disclosed that the invention is a rearview mirror for motor vehicles, and it is apparent that the mirror must be fixedly attached to the vehicle for the device to function as intended).

Regarding claim 32, Lang discloses an outside rear view mirror assembly (Title) wherein said catch piece (i.e., the projection portion of the end of the clip of 5) extends laterally across said snap-in tongue (i.e., the clip ends of 5).

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Regarding claims 26 and 27, Lang further discloses that said mirror mounting bracket includes a catch recess (Fig. 2) to receive said snap-in tongue (Fig. 2) therein to lock said mirror mounting bracket in place (Fig. 2), and wherein said snap-in tongue includes a catch piece (i.e., the projection from the tip) at said free end thereof to engage said catch recess.

Regarding claim 28, Lang further discloses that said mirror mounting bracket includes a positive locking component (i.e., the folded back section of 4 including the recess) extending out from said mirror mounting bracket to guide said mirror mounting bracket as it is inserted into said mirror housing (Fig. 2).

Regarding claim 29, Lang further discloses that said back wall of said mirror housing includes an insertion tunnel (i.e., the interior of the folded back section of 4 including the recess) for receiving said positive locking component therein.

Regarding claims 30 and 31, Lang further discloses said positive locking component includes a stop (i.e., the uneven portion of 4 just beyond the clip of 5) for abutting said insertion tunnel preventing said catch piece from moving past said catch recess (Fig. 2); that said catch recess includes an angled surface (i.e., the angled nature of the surface may be seen in the figure) to abut and engage said catch piece (Fig. 2).

### ***Response to Arguments***

Applicant's arguments submitted 12/10/08 have been considered, but are not found persuasive.

Applicant argues (1) that the reference does not disclose a mounting bracket that is snap fit to the mirror housing (REMARKS, p. 6); (2) that the reference requires additional hardware, including screws to accomplish the same (p. 6).

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Examiner respectfully disagrees. First, the limitations of the claims were identified and correlated with the references as indicated above and in the first office action on the merits. Applicant has merely made the allegation that the limitations are not met, and thus has not provided any evidence or argument directed to how the identified elements in the first action fail to meet the claimed limitations or to how the identified elements are otherwise distinguishable from the claimed limitations as is required by 37 CFR §1.111(b).

Second, no special definition of "snap fit" or "mirror housing" were found in the application. All limitations have been given their broadest reasonable interpretation. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Thus, the exclusion of "tubing" or "screws" are not achieved in this manner.

Similarly, the singular elements recited by the claims are not required by Applicant's claim language to be exclusive. The preamble word "comprising" is open-ended and thus does not require the exclusivity of the recited elements, but allows the reference or combination of references to contain other elements as well. Additionally, "[t]he word 'comprising' transitioning from the preamble to the body signals that the entire claim is presumptively open-ended." *In Gillette Co. v. Energizer Holdings Inc.*, 405 F.3d 1367, 74 USPQ2d 1586 (Fed. Cir. 2005). See also *Mars Inc. v. H.J. Heinz Co.*, 377 F.3d 1369, 1376, 71 USPQ2d 1837, 1843 (Fed. Cir. 2004) ("like the term comprising, the terms containing and mixture are open-ended."), *Invitrogen Corp. v. Biocrest Mfg., L.P.*, 327 F.3d 1364, 1368, 66 USPQ2d 1631, 1634 (Fed. Cir. 2003) ("The transition comprising in a method claim indicates that the claim is open-ended and allows

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for additional steps.”); *Genentech, Inc. v. Chiron Corp.*, 112 F.3d 495, 501, 42 USPQ2d 1608, 1613 (Fed. Cir. 1997). (MPEP §2111.02.)

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer L. Doak whose telephone number is (571)272-9791. The examiner can normally be reached on Mon-Thurs: 7:30A-5:00P, Alt Fri: 7:30A-4:00P (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on 571-272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. L. D./  
Examiner, Art Unit 2872

/Alessandro Amari/  
Primary Examiner, Art Unit 2872